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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT TACOMA

8 DUSTIN GENE ABRAMS,

9 Plaintiff,

10 v.

11 HILCO RECEIVABLES, LLC,

12 Defendant.

CASE NO. C09-5595BHS

ORDER DENYING  
DEFENDANT'S MOTION TO  
DISMISS

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14 This matter comes before the Court on Defendant Hilco Receivables, LLC's  
15 ("Hilco") motion to dismiss (Dkt. 27). The Court has reviewed the briefs filed in support  
16 of and in opposition to the motion and the remainder of the file and hereby denies the  
17 motion for the reasons stated herein.

18 **I. PROCEDURAL HISTORY**

19 On September 23, 2009, Plaintiff Dustin Gene Abrams ("Abrams") filed a motion  
20 to proceed in forma pauperis and a proposed complaint. Dkt. 1. On October 5, 2009, the  
21 Court granted his motion and placed his complaint against Hilco on the electronic docket.  
22 Dkts. 2 & 3. Abrams alleges that Hilco attempted to collect a debt in violation of the Fair  
23 Debt Collections Practices Act, 15 U.S.C. 1692(k) ("FDCPA"). *See* Dkt. 3.

24 Over the course of almost two years, the Court directed service on Hilco, but  
25 Abrams failed to provide a proper address for service. On July 29, 2011, Hilco filed a  
26 waiver of service. Dkt. 23.  
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1 On September 26, 2011, Hilco filed a motion to dismiss. Dkt. 27. On September  
2 26, 2011, Abrams filed an objection, which the Court will construe as a response. Dkt.  
3 28. On September 30, 2011, Hilco replied. Dkt. 29.

## 4 II. DISCUSSION


5 Actions under the FDCPA must be brought within one year from the date on which  
6 the violation occurs. 15 U.S.C. § 1692k(d). A civil action is commenced by filing a  
7 complaint with the court. Fed. R. Civ. P. 3.

8 In this case, Hilco argues that Abrams' claims are barred by the statute of  
9 limitations because his complaint should be deemed to have been filed when Hilco filed  
10 its waiver of service. Dkt. 27 at 3-4. Hilco requests that the Court apply RCW 4.16.170,  
11 which is the state statute governing the tolling of the statute of limitations. *Id.* The Court  
12 declines to adopt the state statute and will follow the Federal Rules of Civil Procedure.  
13 Therefore, this action will be deemed to have commenced when Abrams filed his motion  
14 to proceed in forma pauperis and proposed complaint with the Court on September 23,  
15 2009.

## 17 III. ORDER

18 Therefore, it is hereby **ORDERED** that Hilco's motion to dismiss (Dkt. 27) is  
19 **DENIED**.

20 DATED this 28th day of October, 2011.

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23 BENJAMIN H. SETTLE  
24 United States District Judge  
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